"बिजनेस पोस्ट के अन्तर्गत डाक शुल्क के नगद भुगतान (बिना डाक टिकट) के प्रेषण हेतु अनुमत. क्रमांक जी.2-22-छत्तीसगढ़ गजट / 38 सि. से. भिलाई, दिनांक 30-05-2001."

पंजीयन क्रमांक
"छत्तीसगढ़/दुर्ग/09/2013-2015."

छत्तीसगढ़ राजपत्र

(असाधारण)
प्राधिकार से प्रकाशित

क्रमांक 206] रायपुर, मंगलवार, दिनांक 5 जून 2018 — ज्येष्ठ 15, शक 1940

विधि और विधायी कार्य विभाग
मंत्रालय, महानदी भवन, नया रायपुर

नया रायपुर, दिनांक 5 जून 2018

क्रमांक 5663/डी. 89/21-अ/प्रा./छ. ग./18.— भारत सरकार, विधि और न्याय मंत्रालय, विधायी विभाग के पत्र क्रमांक 2(6)/18-Leg. I/ नई दिल्ली, दिनांक 03-05-2018 के अनुसरण में दि कॉमर्शियल कोर्ट्स, कॉमर्शियल डिविजन एण्ड कॉमर्शियल एपीलेट डिविजन ऑफ हाई कोर्ट्स (अमेंडमेन्ट) ऑर्डिनेन्स, 2018 (क्रमांक 3 सन् 2018) एतद्द्वारा सर्वसाधारण की जानकारी हेतु पुन: प्रकाशित की जाती है.

छत्तीसगढ़ के राज्यपाल के नाम से तथा आदेशानुसार,
मनीष कुमार ठाकुर, अतिरिक्त सचिव.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, the 3rd May, 2018/Vaisakha 13, 1940 (Saka)

THE COMMERCIAL COURTS, COMMERCIAL DIVISION AND COMMERCIAL APPELLATE DIVISION OF HIGH COURTS (AMENDMENT) ORDINANCE, 2018

No. 3 OF 2018

Promulgated by the President in the Sixty-ninth Year of the Republic of India.

An Ordinance to amend the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015.

WHEREAS Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;

NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance :-

Short title and commencement.

1. (1) This Ordinance may be called the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts (Amendment) Ordinance, 2018.

(2) Save as otherwise provided, it shall come into force at once.

Amendment of long title.

2. In the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (hereinafter referred to as the principal Act), in the long title, after the words "Commercial Courts", the words ", Commercial Appellate Courts" shall be inserted.

4 of 2016.

Amendment of section 1.

3. In section 1 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) This Act may be called the Commercial Courts Act, 2015.".

Amendment of section 2.

4.In section 2 of the principal Act, in sub-section (1),—

(I) clause (a) shall be renumbered as clause (aa) thereof, and before clause (aa) as so renumbered, the following clause shall be inserted,namely:—

'(a) "Commercial Appellate Courts" means the Commercial Appellate Courts designated under section 3A;';

(II) in clause (i), for the words "which shall not be less than one crore rupees", the words "which shall not be less than three lakh rupees" shall be substituted.

Substitution of Chapter heading.

5.In the principal Act, in Chapter II, for the Chapter heading, the following Chapter heading shall be substituted, namely:—

"COMMERCIAL COURTS, COMMERCIAL APPELLATE COURTS, COMMERCIAL DIVISIONS AND COMMERCIAL APPELLATE DIVISIONS".

Amendment of section 3.

6.In section 3 of the principal Act,—

(a) in sub-section (1),for the proviso, the following provisos shall be substituted, namely:—

"Provided that with respect to the High Courts having ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, constitute Commercial Courts at the District Judgelevel:

Provided further that with respect to a territory over which the High Courts have ordinary original civil jurisdiction, the State Government may, by notification, specify such pecuniary value which shall not be less than three lakh rupees and not more than the pecuniary jurisdiction exercisable by the District Courts, as it may consider necessary.";

(b) after sub-section (1), the following sub-section shall be inserted, namely: —

"(1A) Notwithstanding anything contained in this Act, the State Government may, after consultation with concerned High Court, by notification, specify such pecuniary value which shall not be less than three lakh rupees or such higher value, for whole or part of the State, as it may consider necessary.";

(c) in sub-section(3), —

(i) for the words "State Government shall", the words "State Government may" shall be substituted;

(ii) for the words "Commercial Court,from amongst the cadre of Higher Judicial Service in the State", the following words shall be substituted, namely:—

"Commercial Court either at the level of District Judge or a court below the level of a District Judge.".

Insertion of new section 3A.

7. After section 3 of the principal Act, the following section shall be inserted, namely:—

Designation of Commercial Appellate Courts.

"3A. Exceptthe territories over which the High Courts have ordinary original civil jurisdiction, the State Government may, after consultation with the concerned High Court, by notification, designate such number of Commercial Appellate Courts at District Judge level, as it may deem necessary, for the purposes of exercising the jurisdiction and powers conferred on those Courts under this Act.".

Amendment of section 4.

8. In section 4 of the principal Act,in sub-section (1), for the words "ordinary civil jurisdiction", the words "ordinary original civil jurisdiction" shall be substituted.

Omission of section 9.

9. Section 9 of the principal Act shall be omitted.

Amendment of section 12.

10. In section 12 of the principal Act, in sub-section (1),—

(i) in clause (c), after the words "Specified Value;", the word "and" shall be inserted;

(ii) in clause (d), the word "and", occurring at the end, shall be omitted;

(iii) clause (e) shall be omitted.

Insertion of new Chapter IIIA.

11. After Chapter III of the principal Act, the following Chapter shall be inserted, namely:—

"CHAPTER IIIA

PRE-INSTITUTION MEDIATION AND SETTLEMENT

Pre-Institution Mediation and Settlement.

12A. (1) A suit, which does not contemplate any urgent interim relief under this Act, shall not be instituted unless the plaintiff exhausts the remedy of pre-institution mediation in accordance with such manner and procedure as may be prescribed by rules made by the Central Government.

(2) The Central Government may, by notification, authorise the Authorities constituted under the Legal Services Authorities Act, 1987, for the purposes of pre-institution mediation.

39 of 1987.

(3) Notwithstanding anything contained in the Legal Services Authorities Act, 1987, the Authority authorised by the Central Government under sub-section (2) shall complete the process of mediation within a period of three months from the date of application made by the plaintiff under sub-section (1):

39 of 1987.

Provided that the period of mediation may beextended for a further period of two months with the consent of the parties:

Provided further that, the period during which the parties remained occupied with the pre-institution mediation, such period shall not be computed for the purpose of limitation under the Limitation Act, 1963.

36 of 1963.

(4) If the parties to the commercial dispute arrive at a settlement, the same shall be reduced into writing and shall be signed by the parties to the dispute and the mediator.

(5) The settlement arrived at under this section shall have the same status and effect as if it is anarbitral award on agreed terms under sub-section(4) of section 30 of the Arbitration and Conciliation Act, 1996.".

26 of 1996.

Amendment of section 13.

12. In section 13 of the principal Act, for sub-section (1), the following shall be substituted, namely:—

"(1) Any person aggrieved by the judgment or order of a Commercial Court below the level ofa District Judge

may appeal to the Commercial Appellate Court within a period of sixty days from the date of judgment or order.

(1A) Any person aggrieved by the judgment or order of a Commercial Court at the levelof District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of the judgment or order:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 as amended by this Act and section 37 of the Arbitration and Conciliation Act, 1996.".

5 of 1908.
26 of 1996.

Amendment of section 14.

13. In section 14 of the principal Act, for the words "Commercial Appellate Division", the words "Commercial Appellate Court and the Commercial Appellate Division" shall be substituted.

Amendment of section 15.

14. In section 15 of the principal Act, in sub-section (4), for the words, figures and letter "with Order XIV-A", the words, figures and letters "with Order XV-A" shall be substituted.

Amendment of section 17.

15. In section 17 of the principal Act, for the words "Commercial Courts" and "Commercial Court", wherever they occur, the words "Commercial Courts, Commercial Appellate Courts" shall be substituted.

Amendment of section 20.

16. In section 20 of the principal Act, for the words "Commercial Court", the words "Commercial Courts, Commercial Appellate Courts" shall be substituted.

Insertion of new section 21A.

17. After section 21 of the principal Act, the following section shall be inserted, namely:—

Power of Central Government to make rules.

"21A. (1) The Central Government may, by notification, make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for or any of the following matters, namely:—

(a) the manner and procedure of pre-institution mediation under sub-section (1) of section 12A;

(b) any other matter which is required to be, or may be, prescribed or in respect of which provision is to be made by rules made by the Central Government.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session, or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule, or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.".

Amendment of Schedule.

18. In the Schedule to the principal Act,—

(i) in Paragraph 4, in sub-paragraph (D), in item (iv),–

(a) in the opening portion, the words "after the first proviso," shall be omitted;

(b) for the words "Provided further that", the words "Provided that" shall be substituted;

(ii) in paragraph 11, for the words "Commercial Court", the words "Commercial Court, Commercial Appellate Court" shall be substituted;

(iii) after paragraph 11, the following shall be inserted and shall be deemed to have been inserted with effect from the 23rd October, 2015, namely:–

"12. After Appendix H, the following Appendix shall be inserted, namely:–

'APPENDIX-I

STATEMENT OF TRUTH

(Under First Schedule, Order VI- Rule 15A and Order XI- Rule 3)

I----- the deponent do hereby solemnly affirm and declare as under:

1. Iam the party in the above suit and competent to swear this affidavit.

2. I am sufficiently conversant with the facts of the case and have also examined all relevant documents and records in relation thereto.

3. I say that the statements made in -----paragraphs are true to my knowledge and statements made in -----paragraphs are based on information received which I believe to be correct and statements made in ---paragraphs are based on legal advice.

4. I say that there is no false statement or concealment of any material fact, document or record and I have included information that is according to me, relevant for the present suit.

5. I say that all documents in my power, possession, control or custody, pertaining to the facts and circumstances of the proceedings initiated by me have been disclosed and copies thereof annexed with the plaint, and that I do not have any other documents in my power, possession, control or custody.

6. I say that the above-mentioned pleading comprises of a total of --pages, each of which has been duly signed by me.

7. I state that the Annexures hereto are true copies of the documents referred to and relied upon by me.

8. I say that I am aware that for any false statement or concealment, I shall be liable for action taken against me under the law for the time being in force.

Place:
Date:

DEPONENT

VERIFICATION

I, ... do hereby declare that the statements made above are true to my knowledge.

Verified at [place] on this [date]

DEPONENT".'.

Application of Ordinance to cases filed on or after its commencement.

19. Save as otherwise provided, the provisions of this Ordinance shall apply only to cases relating to commercial disputes filed on or after the date of commencement of this Ordinance.

RAM NATH KOVIND,
President.

DR. G. NARAYANA RAJU,
Secretary to the Govt. of India.

संचालक, मुद्रण तथा लेखन सामग्री, छत्तीसगढ़ द्वारा शासकीय मुद्रणालय, रायपुर से मुद्रित तथा प्रकाशित - 2018.